IN THE UNITED STATES DISCTRICT COURT FOR THE NORTHERN DISTRICT OF WEST VIRIGNIA, CLARKSBURG DIVISION

ELECTRONICALLY FILED
Jun 23 2017
U.S. DISTRICT COURT
Northern District of WV

LAMAR OUTDOOR ADVERTISING,
a West Virginia Corporation,

Plaintiff,

v. **Civil Action No.:** 2:17-CV-82 (Bailey)

THE CITY OF WESTON,

Defendant.

COMPLAINT

1. The Plaintiff, Lamar Outdoor Advertising, (hereinafter "Plaintiff") is a West Virginia corporation with an address of 1600 Aviation Way, Bridgeport, WV 26330.
2. The Plaintiff is in the business of providing advertising on billboards provided and maintained by the company. The company also contracts with owners of property throughout the state for the erection of said billboards.
3. The Defendant, The City of Weston, (hereinafter "Defendant") is a West Virginia municipality with an address of 102 W. Second Street, Weston, WV 26452.
4. On August 17, 2017, the Plaintiff entered into a contract with the Lewis Board of Education for the placement of a billboard on property owned by the Board of Education. See attached Exhibit A.
5. Also on August 17, 2016, the Defendant sent a letter to the Lewis County Board of Education asking them to reconsider their decision to allow the construction of a billboard on their property. See attached Exhibit B.
6. On December 5, 2016, the Defendant enacted an ordinance for its municipality which regulated the location of billboards with the city limits of the city. See attached Exhibit C.

7. On January 12, 2017, the Plaintiff filed a permit with the Defendant for the purpose of the erection of the billboard on the property owned by the Lewis County Board of Education. See attached Exhibit D.

8. On January 18, 2017, the Plaintiff received a rejection of their application for a permit by the Defendants based on the ordinances enacted in December. See attached Exhibit E.

COUNT I- UNCONSITUTIONAL RESTRICTION ON FREEDOM OF SPEECH

9. The ordinance enacted by the Defendant is, on its face, an unconstitutional restriction on the Freedom of Speech protected by the First Amendment of the Constitution of the United States.

10. Commercial speech, including advertising, is afforded protection under the First Amen-dement of the Constitution of the Untied States.

11. Specifically, Section 4, Number 10 of the Ordinance is an improper time, place, and manner restriction on Freedom of Speech as it is not narrowly tailored in its restrictions and restricts the erection of advertising or signs 'within five hundred feet of any church, school property, cemetery, public park, public reservation, public playground, or state or national forest." See attached copy of ordinance attached hereto as Exhibit C.

12. The ordinance is not narrowly tailored enough to pass constitutional muster due to the inordinate amount of places that advertising cannot be erected.

13. It is not tailored to a specific street or block of the city, but is expanded to any place in the city which is within five hundred feet of numerous places that can be spread throughout the city itself.

COUNT II- CONSTITUTES A TAKING OF PRIVATE PROPERTY FOR GOVERNMENT USE

14. Section 4, Number 10 of the ordinance passed by the Defendant improperly restricts privately owned property.

15. In the Defendant's actions to "beautify" their city, the ordinance not only restricts the erection of signage on property owned by the municipality, but also improperly restricts privately owned property in such a way that it amounts to a taking of private property for a government use without due process of law.

16. The Lewis County Board of Education owns a piece of property which it contracted with the Plaintiff to lease.

17. By enacting the ordinance, the Defendant limited the way in which the school board was able to use its private property.

COUNT III- TORTIOUS CONTRACTUAL INTERFERENCE

18. Prior to the filing of its permit, the Plaintiff and the Lewis County School Board entered into a contractual agreement which benefitted the two parties.

19. By enacting this ordinance and denying the Plaintiff's permit to erect signage on the school board's property, the Defendant tortuously interfered in the contractual arrangement between the Plaintiff and the school board.

20. This interference caused monetary damages to the plaintiff due to loss of revenue.

WHEREFORE, the Plaintiff, Lamar Outdoor Advertising, by counsel Robert L. Greer and Greer Law Offices, PLLC, respectfully requests that this Honorable Court find that the ordinance enacted by the Defendant places an improper time, place, and manner restriction on protected commercial speech and order that the ordinance be repealed. The Plaintiff further requests that this Honorable Court grant it damages for the tortious contractual interference as well as court costs, attorney fees, and any other such damages as the Court would deem appropriate.

LAMAR OUTDOOR ADVERTISING,
Plaintiff
By counsel

/r/ Robert L. Greer/ Jenna L. Robey

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